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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,583	04/28/2006	Hermann Bieg	72261.45	3058
6/04/74 7590 08/19/2009 GRAY ROBINSON, P.A. P.O. Box 2328 FT. LAUDERDALE, FL 33303-9998				
EXAMINER				
GREECE, JAMES R				
ART UNIT		PAPER NUMBER		
2873				
MAIL DATE		DELIVERY MODE		
08/19/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/595,583

**Applicant(s)**

BIEG ET AL.

**Examiner**

JAMES R. GREECE

**Art Unit**

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 May 2009.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26-54 is/are pending in the application.  
4a) Of the above claim(s) 33,35,37-39,44-48,51 and 52 is/are withdrawn from consideration.  
5) ☒ Claim(s) 26-32,34,36,40-43,49 and 50 is/are allowed.  
6) ☒ Claim(s) 53 and 54 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 28 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-849)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 53-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Oono et al (USPAT 5,926,324).

Re claim 53, Oono et al teaches a diaphragm device for stopping down an objective of the type used for carrying out semiconductor microlithography with a beam of extreme ultra-violet light directed along a beam path, said diaphragm device comprising: a plurality of optical elements (see at least L1, L2, L3); a diaphragm device with an adjustable diaphragm opening shape, wherein the diaphragm device has a diaphragm store which comprises a revolving disc diaphragm stack with a plurality of individual revolving disc diaphragms which are provided with different diaphragm openings with fixed shapes in each case, which can be introduced into the beam path (see at least 53), and a lifting device for positioning said revolving disc diaphragms in the beam path (see at least 54b).

Re claim 54, Oono et al teaches a diaphragm device for stopping down an objective of the type used for carrying out semiconductor microlithography with a beam of extreme ultra-violet light directed along a beam path, said diaphragm device comprising:

a plurality of optical elements (see at least L1-L3) and a diaphragm device with an adjustable diaphragm opening shape (see at least 53), wherein the diaphragm device has a diaphragm store with a plurality of different diaphragm openings with fixed shapes in each case, which can be introduced into the beam path (see at least 53).

***Allowable Subject Matter***

The following is a statement of reasons for the indication of allowable subject matter: The prior art taken singularly or in combination fails to anticipate or fairly suggest the limitations of the independent claims, in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper.

In regard to independent claim 26, the prior art taken either singly or in combination fails to anticipate or fairly suggest an objective for carrying out semiconductor microlithography at an extreme ultra-violet wavelength for producing semiconductor elements including the particular structure of the diaphragm and storage device; recited together in combination with the totality of particular features/limitations recited therein. Further reasons for allowance are disclosed on page 12, lines 3-16 of the applicant's remarks filed 5/4/2009.

In regard to independent claim 50, the prior art taken either singly or in combination fails to anticipate or fairly suggest an objective for carrying out semiconductor microlithography at an extreme ultra-violet wavelength for producing semiconductor elements including the particular structure of the diaphragm and storage device; recited together in combination with the totality of particular features/limitations recited therein. Further reasons for allowance are disclosed on page 12, lines 3-16 of the applicant's remarks filed 5/4/2009.

***Cited Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Sato et al (USPAT 5,646,770) is cited to show a diaphragm system in the art.

***Conclusion***

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES R. GREECE whose telephone number is (571)272-3711. The examiner can normally be reached on M-Th 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. R. G./  
James R Greece  
Examiner, Art Unit 2873  
8/6/2009

/Joseph Martinez/  
Primary Examiner, Art Unit 2873